

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 83 of 2000.

Dated this Monday, the 6th day of March, 2000.

Harendra Singh, Applicant.

Shri S. Ramamurthy, Advocate for the
Applicant.

VERSUS

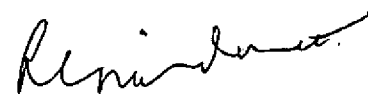
Union of India & Another, Respondents.

Suresh Kumar, Advocate for the
Respondents.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

- (i) To be referred to the Reporter or not ?
(ii) Whether it needs to be circulated to other
Benches of the Tribunal ?
(iii) Library.


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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Harendra Singh,
Chief Commercial Manager,
(Passenger Reservation System),
Central Railway, Mumbai C.S.T.,
Mumbai - 400 001.

... Applicant

(By Advocate Shri M. S. Ramamurthy)

VERSUS

1. Union Of India through
The Secretary,
Ministry of Railways,
Railway Board, Rail Bhavan,
New Delhi - 110 001.

2. The General Manager,
Central Railway,
C.S.T., Mumbai - 400 001.

... Respondents.

(By Advocate Shri Suresh Kumar)

OPEN COURT ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

The applicant filed this application seeking a direction to the respondents to promote him in the Higher Administrative Grade and for other consequential reliefs. Respondents have filed reply opposing the application. We have heard the Learned Counsel appearing on both sides. Since the point involved is a short point, we are disposing of the application at the admission stage.

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2. The applicant's grievance is that he is a senior officer in the Sr. Administrative Grade and due for promotion to the Higher Administrative Grade. He apprehends that he might not have been promoted presumably on the ground that his grading in the Confidential Report is not correct and not as per rules. That is how he has rushed to this Tribunal seeking a direction to the respondents to promote him.

3. The respondents in their reply have stated that the applicant's case has been considered by the D.P.C. for promotion but the decision of the D.P.C. has been kept in a sealed cover since the administration had decided to hold a departmental enquiry against the applicant in April, 1999 and accordingly a charge-sheet was issued against the applicant on 25.10.1999. The D.P.C. was held on 29.07.1999. The orders of promotion are not issued to anybody, either to the applicant or to his juniors. Since before the decision of the D.P.C. was implemented a charge-sheet has been issued against the applicant, reliance is therefore placed on para 6 of the Railway Board circular dated 21.01.1993.

4. The Learned Counsel of the applicant contended that since the respondents are referring to para 6 of the Railway Board circular, the applicant must have been recommended by the D.P.C. for promotion and the promotion has now been with-held due to issuance of charge-sheet after the meeting of D.P.C. and before the actual order of promotion. But the Learned Counsel for the respondents submitted that the decision of the D.P.C. has been kept in a sealed cover and he cannot now say whether the applicant has been recommended for promotion or not, since the findings are kept in a sealed cover.



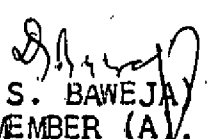
In our view, we need not go into the correctness of the submission made on both sides, since the findings are kept in a sealed cover and we cannot give a direction to the respondents to open the sealed cover unless the departmental enquiry comes to an end according to rules.

5. The applicant's counsel submitted that applicant's promotion is held up now due to the departmental enquiry and the respondents should be directed to expedite and dispose of the enquiry case within four weeks. He also submitted that since this is a minor penalty charge-sheet, there is no enquiry necessary and orders can be passed on the basis of allegations in the charge-sheet and written submission submitted by the applicant. He also further stated that applicant is not demanding any regular enquiry in this minor penalty charge-sheet. The Learned Counsel for the respondents on the other hand submitted that minimum three months' time is necessary for the disposal of the enquiry case.

6. We have already noticed that charge-sheet was issued in October, 1999 and served on the applicant on 25.11.1999. The applicant has sent a reply dated 03.12.1999 to the charge-sheet. In such a case, the Disciplinary Authority has to peruse the allegations in the charge-sheet and the reply of the applicant and then has to pass an order according to law. In the circumstances of the case we feel that 8 weeks time would be just and reasonable for the Disciplinary Authority to pass an order in the minor penalty charge-sheet case.



7. In the result, the O.A. is disposed of at the admission stage with a direction to the Disciplinary Authority to pass a final order in the minor penalty charge-sheet issued against the applicant within two months from the date of receipt of a copy of this order. The sealed cover will have to be opened subject to the result of the departmental enquiry and subject to the contents of the sealed cover procedure vide circular dated 21.01.1993. In case any adverse order is passed in the departmental enquiry case, it is always open to the applicant to challenge the same according to law. Similarly, in case the applicant is not promoted after the disposal of the enquiry case, it is also open to the applicant to challenge the same according to law. All other contentions in the O.A. about merits of the case, about promotion, etc. are left open. The interim order dated 21.02.2000 is hereby vacated. In the circumstances of the case, there will be no order as to costs,


(D. S. BAWEJA)
MEMBER (A).


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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